

\$~19(Original Side)

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 572/2020 & I.A. 11925/2021**

**ELSEVIER LTD. AND ORS.**

**..... Plaintiffs**

Through: Mr. Amit Sibbal, Sr. Adv. with  
Mr. Saikrishna Rajgopal, Ms.  
Sneha Jain, Mr. Siddharth  
Chopra, Ms. Disha Sharma, Mr.  
Saksham Dhingra, Ms. Surabhi  
Pande & Ms. Snehima Jauhari,  
Advs.

Mr. Jawahar Raja and Mr.  
Archit Krishna, Advs. on behalf  
of Intervenor Ram  
Ramaswamy Et Al

versus

**ALEXANDRA ELBAKYAN AND ORS. .... Defendants**

Through: Mr. Rohit Sharma, Mr. Rounak  
Nayak, and Ms. Arju  
Chaudhary, Advocates for  
Delhi Science Forum and  
Society for Knowledge  
Commons

Mr. Harish Vaidyanathan  
Shankar, CGSC, Adv. Miss. S.  
Bushra Kazim, Adv. for D12 &  
13

Mr. KR Sasiprabhu & Mr.  
Tushar Bhardwaj, Advs. for D8,  
Reliance Jio Infocomm Limited

**CORAM:**

**HON'BLE MR. JUSTICE C.HARI SHANKAR**

**ORDER**

% **15.09.2021**

**I.A. 11925/2021 (under Section 151 of the CPC, 1908 – for**

**appropriate directions)**

1. This application, at the instance of the plaintiff, adverts to an undertaking given by the defendant, before this Court on 24<sup>th</sup> December, 2020, which stands recorded in Para 6.2 and 6.3 of the order passed on the said date thus:

“6.2 However, given the stand taken by Mr. Sibal, Mr. Jain says no new articles or publications, in which the plaintiffs have copyright, will be uploaded or made available, by defendant no. 1/Alexandra Elbakyan, *via* the internet, till the next date of hearing.

6.3 The statement of Mr. Jain is taken on record.”

2. On 6<sup>th</sup> January, 2021, the aforesaid undertaking granted by Defendant No. 1 was directed to ‘continue till the next date of hearing’.

3. There is no subsequent order extending the undertaking.

4. The present application has been filed by the plaintiff, contending that, while the defendant was abiding by the aforesaid undertaking thereafter, it is now acting in breach of the undertaking. As such, the plaintiff seeks a direction from the Court, binding the respondent by the aforesaid undertaking, granted on 24<sup>th</sup> December, 2020, and extended on 6<sup>th</sup> January, 2021.

5. Mr. Gopal Sankarnarayanan, learned Counsel for the defendants, submits that no ground, for issuance of any such direction, is made out. He has placed on record, judicial authorities on which, according to him, clearly hold that the undertaking would continue

only till the date which it was given, and not thereafter.

6. Mr. Sibal, *per contra*, submits that the decisions on which Mr. Sankarnarayanan relies, are cases in which, the *interim* order was extended, either for a specific date or for a specific period of time, and not orders in which the extension was “till the next date of hearing”.

7. He submits that the expression, “next date of hearing”, has been interpreted by the Supreme Court to mean the date on which the Court applies its mind. That, he submits, has not happened after 6<sup>th</sup> January, 2021; resultantly, according to him, a clear case for extension of the undertaking is made out.

8. Mr. Sankarnarayanan seeks a short adjournment to place the response to this application on record. Mr. Sibal, opposes the request on the ground that repeated prejudice is resulted to the plaintiff, as a consequence of the breach of the undertaking by Defendant No. 1.

9. In any event, as this is a fresh application, issue notice returnable on 21<sup>st</sup> September, 2021. Notice is accepted on behalf of Defendant No. 1 by Mr. Nilesh Jain.

10. Reply, if any, be positively filed on or before 18<sup>th</sup> September, 2021, with advance copy to learned Counsel for the plaintiff, who may file his response thereto, before the next date of hearing and also by way of e-mail to the Court Master.

**11.** Re-notify on 21<sup>st</sup> September,2021.

**C.HARI SHANKAR, J**

**SEPTEMBER 15, 2021**

*ss*